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**HF 639** – Fees in Probate Proceedings (LSB1816HZ)

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Fiscal Note Version – As Amended by the House Ways and Means Committee

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### **Description**

[House File 639](#) makes several changes to court costs charged and collected by a clerk of probate court in connection with probate matters under Iowa Code section [633.31](#):

- Creates a \$185 fee for administration of an estate valued at \$5.0 million or less and a \$250 fee if the value of the estate exceeds \$5.0 million.
- Removes the \$10 fee currently charged for the entry of a rule or order in connection with a probate matter.
- Raises the \$15 fee currently charged for service performed in connection with the administration of small estates to \$185.

This Bill will reduce the calculation of “gross estate value,” the current basis for calculation of probate fees, by subtracting the following from the gross estate value:

- 1) Joint tenancy property,
- 2) Transfers during a person’s lifetime, and
- 3) Assets payable to beneficiaries (e.g., life insurance, annuities, retirement accounts, transfer on death accounts, and payable on death accounts).

The Bill also prohibits charging court costs pursuant to Iowa Code section [633.31\(2\)\(k\)](#) on any property transferred to an estate from a conservatorship that has been administered in Iowa and for which court costs have been assessed and paid.

This Bill applies to estates of decedents dying on or after January 1, 2018.

### **Background**

Under current law, Iowa Code section [633.31\(2\)\(k\)](#) provides a sliding scale fee for services performed in connection with the settlement of an estate. The probate fees collected by clerks of court are deposited in the State General Fund pursuant to Iowa Code section [602.8108](#).

### **Assumptions**

- Given the types of assets that will be subtracted from gross estate value, it is assumed that HF 639 will reduce the applicable estate values by 50.0%. If the reduction in estate values is greater than 50.0%, the revenue losses to the State General Fund will be greater than estimated. Probate cases filed prior to January 1, 2018, will still require payment of probate fees on the full gross estate value.
- The total of gross estate value fees paid in FY 2016 was \$11.5 million. This is a 10.0% decrease in collection from FY 2015. This decline could be partially due to attorneys and estate planners encouraging their clients to create a trust to shelter all or nearly all of their assets from probate fees. It is assumed that the FY 2017 total will remain at \$11.5 million and that the collection of the probate fees will decline by 5.0% each fiscal year, starting in FY 2018.
- In FY 2016, 0.4% of the fees collected were filed and paid within the last six months of the fiscal year (January through June 2016). This analysis assumes that 0.4% of fees will be filed and paid within the last six months of FY 2018, and that those cases will be subject to the new fee provisions effective January 1, 2018.

- In CY 2016 there were 1,338 small estate cases filed and 9,286 of all other estate cases filed. The analysis assumes the number of filings will remain constant each fiscal year. It is also assumed there will be 131 cases per year with estates valued above \$5.0 million.

### **Fiscal Impact**

House File 639 is estimated to reduce fee revenues to the State General Fund within two years of implementation. The new gross estate value provisions of HF 639 will apply to estates of decedents dying on or after January 1, 2018. As a result, there will only be an impact on the cases filed and paid for in the second half of FY 2018. Probate cases filed prior to the effective date will still require payment under current law.

In FY 2018, the additional fee provisions added by HF 639 will result in an estimated increase of \$896,547 in revenue to the State General Fund. In FY 2019 and subsequent fiscal years, the reduced calculation of gross estate values will decrease the revenue from fees and result in a negative impact to the State General Fund. The following table shows the estimated probate fees to be paid between FY 2018 and FY 2021 under both current law and the proposed law and the estimated impact on the State General Fund.

### **Estimated Probate Fee Revenue FY 2018 – FY 2021**

	FY 2018 (Jan - June)	FY 2019	FY 2020	FY 2021
Estimated revenue under <u>current law</u>	\$ 5,495,443	\$ 10,373,036	\$ 9,796,756	\$ 9,220,476
Fees filed before Jan. 1, 2018	5,453,872	5,865,003	1,646,166	619,201
Fees filed after Jan. 1, 2018	20,786	2,254,016	4,075,295	4,300,638
Est. revenue from probate fees under <u>HF 639</u>	5,474,658	8,119,019	5,721,461	4,919,838
Revenue from increased admin fees under <u>HF 639</u>	917,333	1,834,665	1,834,665	1,834,665
<b>Total Revenue from HF 639</b>	<b>\$ 6,391,991</b>	<b>\$ 9,953,684</b>	<b>\$ 7,556,126</b>	<b>\$ 6,754,503</b>
<b>Estimated State Revenue Impact</b>	<b>\$ 896,547</b>	<b>(\$419,351)</b>	<b>(\$2,240,630)</b>	<b>(\$2,465,973)</b>

It is estimated to take several years for the probate cases filed after January 1, 2018, to be closed and fees paid, and for the full fiscal impact to be known. The table below indicates the age of the probate court costs paid during FY 2016.

### **FY 2016 Fee Revenue**

Case Filing Date	# of Cases	Total Amount of Fees Paid
Jan - June 2016	76	\$ 43,759
2015	3,900	\$ 4,965,166
2014	2,907	\$ 4,580,004
2013	752	\$ 1,162,665
2012	304	\$ 526,825
2011	160	\$ 152,389
<u>Before Jan. 1, 2011</u>	<u>335</u>	<u>\$ 94,787</u>
<b>FY 16 Total</b>	<b><u>8,434</u></b>	<b><u>\$ 11,525,595</u></b>

**Source**

Iowa Judicial Branch

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the LSA upon request.

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